

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

TUESDAY, THE 11TH DECEMBER 2007 / 20TH AGRAHAYANA 1929

WP(C).No. 230 of 2005(B)

PETITIONER:

THE DIVISIONAL MANAGER,
KERALA FOREST DEVELOPMENT CORPORATION,
PUMPA DIVISION, PUMPA DAM P.O.,
VANDIPERIYAR.

BY ADV. SRI.V.G.ARUN

RESPONDENTS:

1. THE LABOUR COURT, KOLLAM.
2. THE GENERAL SECRETARY,
HIGH RANGE PLANTATION EMPLOYEES UNION (INTUC),
REG.NO. 46/68, VANDIPERIYAR P.O.,
IDUKKI.

R2 BY ADV. SRI.C.S.MANILAL

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 11/12/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

W.P.(C) NO.230/2005/B

APPENDIX

PETITIONER'S EXHIBITS:

EXT. P1: COPY OF THE ORDER NO.DMP-L.9/91 DATED 19-6-92.

EXT. P2: COPY OF THE AWARD IN I.D. NO.113 OF 1994 DATED 2-7-2003 OF
THE LABOUR GOURT.

/TRUE COPY/

P.A. TO JUDGE

JP

S.SIRI JAGAN, J.

=====

W.P.(C) No. 230 of 2005

=====

Dated this the 11th day of December, 2007

JUDGMENT

The petitioner herein is the Divisional Manager, Kerala Forest Development Corporation which is a Government owned Corporation. He is challenging Ext. P2 award passed by the Labour Court, Kollam in ID No.113/94 wherein the petitioner was the management. The issue referred for adjudication was :

"Whether the dismissal of Sri.Krishnan Kanthaswamy and Smt.Chellai from 15.5.1992 is justifiable.
The benefits entitled to them."

The management contended that the workmen were proceeded against for willful insubordination and disobedience to lawful and reasonable orders of superiors and absence without leave for 28 days and dismissed from service. However, no domestic enquiry was conducted and the management did not adduce evidence before the labour court to prove the alleged misconducts. Therefore, the labour court found that workmen

are entitled to reinstatement and accordingly they were directed to be reinstated but limiting backwages to 60%. The petitioner is challenging Ext.P2 award.

2. It is now admitted that the workers have consequently been reinstated and are actually working. Therefore, presently the grievance of the petitioner appears to be against the direction to pay 60% backwages.

3. I have considered the contentions in detail. It appears from the award itself that when a fire occurred on 3.4.92 in the Meenar Unit of the management, the field assistant and other employees tried to put out the fire. The workman Krishnan Kanthaswamy refused to assist the workers and prevented them from putting out the fire. As a result of the fire, the management sustained loss. A criminal case was registered against Sri.Krishnan Kanthaswamy as C.C. No.396/92 in which the Judicial First Class Magistrate Court, Ranny found him guilty and sentenced to pay a fine of Rs.200/-. Pursuant the said misconduct the workman namely Sri.Krishnan Kanthaswamy was transferred to another unit and along with him his wife Chellai, the other workman involved in the I.D. was also transferred to the other unit. But they failed to report for duty in that unit till 30.5.92 and they did not respond to notices

issued by the management. In spite of notices issued to them again, they did not report for duty. It is under the above circumstances, that the management dismissed the workers with effect from 19.6.92. The contention of the management is that the workman was transferred along with his wife as per his request. I find that Union representing the workmen did not adduce any evidence whatsoever in the industrial dispute. It is not disputed before me that the workman Krishnan Kanthaswamy in fact obstructed the officers and employees of the management from putting out the fire, for which he was convicted and sentenced to pay fine. It is also seen that the workmen did not report for duty in the transferred unit. The transfer is also not challenged. In view of the above circumstances, I feel that the workmen are not entitled to backwages. Accordingly, Ext.P2 award is modified to the extent of denying backwages to the workmen and confirming the other findings and directions. This writ petition is disposed of as above.

Sd/-
S.SIRI JAGAN,
JUDGE